IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 2ND MARCH 2007 / 11TH PHALGUNA 1928

CRP.No. 637 of 2006

AGAINST THE ORDER DATED 31/05/2006 IN EP.23/05, EA.219/05 IN OS.5/2001 of ADDL.SUB COURT, ALAPPUZHA

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REVN. PETITIONER: DECREE HOLDER/PLAINTIFF

K.N.SATHYARAJAN, LEKSHMI NIVAS,
PARAVOOR, PARAVOOR VILLAGE, ALAPPUZHA.

BY ADV. SRI.MATHEWS J.NEDUMPARA
SRI.VADAKARA V.V.N.MENON
SRI.S.JAMAL
SRI.BIMAL K.NATH
SRI.SREEVALSAN.V

RESPONDENTS: JUDGMENT DEBTOR/DEFENDANT

K.K.PRAKASHAN, PROPRIETOR,
KUMARJI COIR MILLS, PATHIRAPPALLY,
ALAPPUZHA, RESIDING AT KANIYAM PARAMBIL,
VATTAYAL WARD, ALAPPUZHA.

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 02/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.P.BALACHANDRAN, J.

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C.R.P.NO.637 OF 2006

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Dated this the 2nd day of March 2007

ORDER

The grievance of the petitioner who is the decree holder in O.S.5/2001 on the file of the Additional Sub Court, Alappuzha is that the Managing Director of Coir Fed, Alappuzha despite attachment ordered of the monthly rents payable by them to the judgment debtor has not effected attachment of those amounts, when as per the decree in the suit more than Rs.4,00,000/- is due from the judgment debtor. The court below vide impugned order has disposed of E.A.219/05 in E.P.23/05 in O.S.5/01 directing the garnishee to deposit Rs.16,985/- within 15 days from the date of the order and has closed the matter.

2. It is vehemently urged before me by the counsel for the petitioner that as per I.A.22/01 attachment before judgment was ordered and that as per the attachment the garnishee Coir Fed was to effect attachment of the monthly rents payable to the respondent/judgment debtor till the debt is discharged. A copy of order on I.A.22/01 passed by the court below on 3.1.2001 along with the attachment schedule was placed before me for perusal.

The order passed by the court below is the following:

> “Heard the counsel for the petitioner/plaintiff. I have perused the affidavit and document. The Cr. petitioner/defendant is directed to furnish security for the suit amount or to show cause why security should not be furnished. In the meantime, conditional attachment of the properties shown on the schedules annexed to this petition. Communicate the order to the S.R.O. Mararikulam and the Managing Director, Coir Fed, Alappuzha. The Managing Director need send the money to court only on further intimation from the court. Issue notice. Return of notice 3.2.2001.”

3. In view of the above order the attention of the garnishee will naturally be invited to the schedule annexed to the attachment petition which also it is submitted was forwarded to the garnishee. The schedule reads thus:

> “മുതൽ കൈവശക്കാരനിൽ നിന്ന് പ്രതിക്ക് ലഭിച്ചു കൊണ്ടിരുന്ന പ്രതിമാസ വാടക 16,985/— രൂപ ജപ്തി ചെയ്തു വരുത്തുവാനുള്ളതാകുന്നു.
>
> മതിപ്പുവില : Rs.16,985/-”

4. From the attachment order and the schedule, any ordinary prudent man can understand the attachment order only as a direction to withhold the monthly rent of Rs.16,985/- payable by them to the respondent/judgment debtor and not any further amount. Consequently, therefore one month's rent amounting to Rs.16,985/- alone has been withheld by the garnishee and that is now ordered to be forwarded to the court. I am also to observe that the preface to the order narrating the prayer in the attachment petition also does not show as to what is the plaint claim in the suit. With the result, the garnishee could not have attached any more amount than Rs.16,985/- and the grievance of the petitioner is without any merit.

The C.R.P. in the circumstances is dismissed.

K.P.BALACHANDRAN, JUDGE

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